

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LAMAR TOLDEN, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:25-cv-00141-MTS
)	
THE CITY’S FINEST, LLC, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on review of the file. The Court concludes that Plaintiffs have not shown their right to file an amended complaint as a matter of course.¹ Federal Rule of Civil Procedure 15(a) governs the amendment of pleadings. Rule 15(a)(1) allows a party to amend its pleading once as a matter of course but only within two specific time periods. *See* 6 Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 1480 (3d ed. 2021). The first time period is twenty-one days after serving the complaint. Plaintiffs have not filed any proof of service in this matter. *See* Fed. R. Civ. P. 4(*l*). Thus, there is no indication that Plaintiffs are within this time period. The second time period’s trigger — the filing a responsive pleading or a motion under Rule 12(b), (e), or (f) — plainly has not occurred.

Thus, Plaintiffs needed leave of Court, or Defendants’ written consent, to file an amended complaint. Fed. R. Civ. P. 15(a)(2). For that reason, the Court will direct the

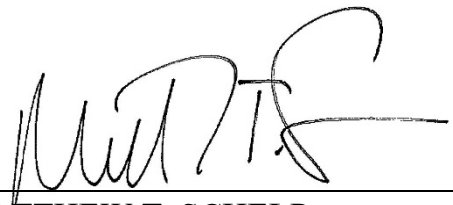
¹ The Court has seen nothing in Plaintiffs’ First Amended Complaint that puts forth their theory on their ability to file it.

Clerk to strike the pleading Plaintiffs labeled as their First Amended Complaint. The Court would fully entertain a properly filed motion for leave to amend. *See Popp Telecom v. Am. Sharecom, Inc.*, 210 F.3d 928, 943 (8th Cir. 2000) (describing the Eighth Circuit’s “liberal viewpoint towards leave to amend”); *see also* E.D. Mo. L.R. 4.07 (providing requirements for filing motions for leave to amend). In addition, Plaintiffs may file the amended complaint if they demonstrate that they may do so as of right pursuant to Rule 15(a)(1)(A).² *Cf.* Fed. R. Civ. P. 4(l).

Accordingly,

The Clerk of Court is respectfully directed to strike Plaintiffs’ First Amended Complaint, Doc. [5]. Plaintiffs’ current operative pleading in this matter is its original Complaint. *See* Doc. [1].

So **ORDERED** this 27th day of March 2025.



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE

² Plaintiffs also could file an amended complaint no later than twenty-one days *after* Defendants serve a responsive pleading or a motion under Rule 12(b), (e), or (f). Fed. R. Civ. P. 15(a)(1)(B).